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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,900	08/27/2003	Eric A. Polcuch	(MD-242) Polcuch	5065
1342	7590	03/04/2004	EXAMINER	
PHILLIPS LYTLE LLP INTELLECTUAL PROPERTY GROUP 3400 HSBC CENTER BUFFALO, NY 14203-3509			GRAHAM, MATTHEW C	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	<i>OP6</i>
	10/648,900	POLCUCH, ERIC A.	
Examiner	Art Unit		
Matthew C Graham	3683		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

Art Unit: 3683

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in the recitation of "resistance... may differ as a function". This recitation is ambiguous and non-limiting. Does the resistance differ or not? Claims 2-7 are indefinite due to their dependency on claim 1.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan et al.

Morgan et al. show a skewed roller brake having first and second plates 36,60 and an intermediate plate 61, which has a plurality of slots for holding rollers 74, see figure 7. Each slot has a first wall at a first angle and a second wall at a second angle. In this instance, the first and second angles are equal. The resistance "may" differ to the broad degree claimed as a function of direction of rotation in that there are inherent mechanical imperfections that effect performance.

Re- claim 2, the second wall is "substantially" parallel to the radius to the broad degree claimed.

Re- claim 3, the rollers move (rotate) between the walls.

Re- claim 4, note the plurality of rollers and slots in Figure 7.

Re- claims 5 and 6, the roller is axially constrained between the two walls.

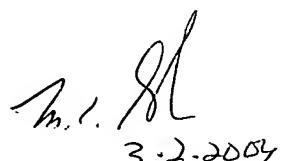
Re- claim 7, the plate 51 is "adapted" to rotate.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Twickler, Fuse et al., Hall, III and Wade show axially expanding roller brakes.

5. The disclosure is objected to because of the following informalities: the numeral 4,850,258 on page 1 of the specification is incorrect.

Appropriate correction is required.

6. Any inquiry concerning this communication should be directed to Matthew C Graham at telephone number 703-308-2570.



3-2-2004

MATTHEW C. GRAHAM
PRIMARY EXAMINER
GROUP 310